

**IN THE COURT OF SH SHIV KUMAR
ADDITIONAL DISTRICT JUDGE-02 (WEST),
TIS HAZARI COURTS, DELHI**

**Civ DJ No. 609335/16
CNR NO. DLWT01-000019-2005**

M/s Instromedix India Pvt. Ltd.

Plaintiff

Vs.

M/s Surgi Aid Pharma

Defendant

**ORDER ON APPLICATION UNDER ORDER 11 RULE 2 & 14
CPC READ WITH SECTION 151 CPC MOVED ON BEHALF
OF DEFENDANTS**

1. Vide this order, I shall decide the application moved on behalf of defendants under order 11 rule 2 & 14 CPC read with section 151 CPC.
2. In the present application the defendants have asked 89 questions by way of interrogatories to the plaintiff.
3. In reply filed to the present application, the plaintiff has taken taken preliminary objections that the present application is wholly frivolous and untenable in law. It is further averred that it is settled law that interrogatories to be sought prior to commencement of trial in order to cut short the trial. It is further

averred that in the present case, the witness PW-1 has been cross-examined substantially as such the present application is not maintainable.

4. It is further contended in the reply that the present application is without any merits as most of the questions being repetitive and remaining wholly unconnected to the issues framed and this is merely a delaying tactics to prolong the cross-examination of PW-1.

5. It is further contended in the reply that defendants have not been able to substantiate the relevance for seeking such interrogatories from the plaintiff sought by way of present application in reference to the written statement filed by the defendants. The substantial interrogatories sought are otherwise beyond pleadings and relevant for the determination of the present case, which otherwise impermissible under the provision Order XI rule 1 CPC and cited the order 11 rule 1 CPC.

6. It is further contended in the reply that the present application is merely a desperate attempt of the defendants to linger on the plaintiff's evidence and have already taken 13 dates for cross-examining the witness/PW-1 wherein some of interrogatories have already been repeatedly answered by PW-1 in his cross-examination. It is further averred in the reply that as such the present application is a gross abuse of the process of law and trying to dig out more time to enlarge the scope of the present case in the absence of same being pleaded in the written statement.

7. It is further contended in the reply that PW-1 has already stated in his cross-examination that the plaintiff company has submitted all original documents with P.S. Raipur in furtherance to carry out investigation in criminal case filed by the defendants against the plaintiff. It is further averred that true copies of these original are genuine and beyond the scope of any dispute. It is further averred that present claim is to be instituted based on documents found in the custody of the plaintiff as Mr.R.P. Singh is not medically fit to contest the present case due to his sufferance from severe heart attack that has deteriorated health of Mr.R.P. Singh who is unable to speak & walk properly at this point of time. The information sought is wholly far fetched being beyond pleadings.

8. On merit the contents of application i.e. question no. 1 to 89 are stated to be are misleading and abuse of process of court and not permissible under the law but still to avoid further delay, the brief, respondent are being given as under:

Question Reference	Remarks
1, 2, 4, 5, 10, 11,12, 13 & 14	This pertains to internal matter of the plaintiff and there is no basis given in the written statement.
3, 30 to 41,44 to 46, 50 to 54, 56 to 58, 61 to 63, 65 to 68, 75 to 89	It is frivolous and wholly unconnected and otherwise beyond pleadings.
7,, 8, 9, 19 to 29, 43, 55, 59 to 60, 64, 70 to 73	Repetitive as responded to in the on going cross-examination of PW-1.
15 & 16	The defendant is the complainant

17, 18, 47-49 & 69

and actively participated in the proceedings throughout. Otherwise is beyond pleadings.

It is already matter of record and the defendant can't seek interrogatories which are pertaining to their own record.

9. It is further prayed that in view of the aforesaid facts and circumstances, this court may please dismiss the present application with exemplary cost upon the defendants.

10. Arguments heard on behalf of both the parties. I have also perused the case file of present case.

11. Written submissions has been filed on behalf of the plaintiff to the above said application and it is submitted that by way of present application, the defendant has invoked the provision of order 11 rule 2 & 14 CPC for seeking interrogatories, but in fact Rule 14 does not relate to seeking interrogatories and beyond the purview of seeking interrogatories.

12. It is further averred in the written submissions that defendant has raised total 89 interrogatories in the present application without any justifiable reasons regarding its relevance or purpose for the adjudication of the present case.

13. It is further averred in the written submissions that the present suit is at the stage of plaintiff evidence and defendant has already substantially cross-examined PW-1 for about 12-13 times thereby leaving no room for further questions. It is submitted that in fact, the interrogatories have already been put to PW-1 in his cross-examination which can be confirmed through the extractions of cross-examination which are in the reply and rejoinder to the present application.

14. It is further averred that the stage of seeking interrogatories have is at the earliest stage of the proceedings as the object and purpose is to shorten the length of the trial and save the time of the court in this regard. It is further averred that the pleadings in the present case stood completed on 09.12.2005 after which the defendant had ample opportunity to seek the said interrogatories but deliberately failed to take cognizance of the same.

15. It is further averred that the application has been filed after 19 years of completion of the pleadings which is highly belated and not maintainable in law since devoid of any proper explanation on the aspect of delay as well. Ld. counsel for the plaintiff referred upon the judgment of P. Kolanda Gounder Vs. The State of Tamil Nadu, cited at 2009, SCC Online Mad 1585 and relied para 5 of the same.

16. It is further averred in the application that the defendant has referred to the case of Tara Batra Vs Punam A Kumar & Ors.

cited at 2021 SCC Online Del 4331, passed in CM(M) No. 925/2019 dated 10.09.2021 by the Hon'ble High Court wherein the application for interrogatories were filed immediately after the framing of issues and before the commencement of the trial with the reasons assigned for seeking the answer to the said interrogatories and its relevance thereto. It is further averred that the Hon'ble High Court has also discussed the provision under order 11 rule 1 CPC, the court has to only consider whether the answers of the said interrogatories is have bearing on the issues involved and also considered that these interrogatories would shortening the length of the trial. But none of the above aspects have been duly covered in the present application.

17. It is further averred that it is well settled law that there is a distinction between the cross-examination and the interrogatories as enunciated by the Hon'ble Supreme Court of India in case of *Raj Narain Vs Smt. Indira Nehru Gandhi & Anr.* Cited at (1972) 3 SCC 850.

18. It is further averred that in the present case there is no explanation as to how the interrogatories are relevant to the matter in question of the present suit and since these questions have already put to PW-1 during cross-examination, as such the defendant is barred from seeking interrogatories at this stage which otherwise form part of the cross-examination in view of the settled law. Ld. counsel for the plaintiff relied upon the case of *Centrient Pharmaceuticals Netherlands V.V. & Anr. VS Dalas Biotech Ltd.*, cited at 2021 SCC Online Del 157.

19. Arguments heard and case file perused. Some of the judgments of Hon'ble High Court of Delhi regarding the principles applicable for deciding the application seeking permission to serve interrogatories under order 11 CPC are mentioned as under:

20. The Hon'ble High Court of Delhi in case titled Transport Corporation of India Ltd. Vs Reserver Bank of India & Anr. CS (OS) 361/2012 decided on 24th August, 2017 as held as under:

20. The Court is not, at this stage, to examine as to what would be the impact of the answer of the interrogatories. The Court, at the stage of administration of interrogatories, has to only consider whether the answer to the interrogatories would have some bearings on the issues involved in the case and as to whether they relate to any matter in question to the suit. The law with regard to the interrogatories is well settled.

21. The provisions of Order XI of the CPC are intended to curtail evidence thereby expediting trial of suit, saving time of the Court and costs of litigation to the parties. They have to be liberally used and parties have to be encouraged to use them in the course of trial. One of the great objects of interrogatories when properly administered has always been to save evidence that is to diminish the burden of proof which was otherwise on the plaintiff. Their object is not merely to discover facts which will inform the plaintiff as to evidence to be obtained, but also to save the expense of proving a part on the case. Interrogatories are not limited to giving the plaintiff a knowledge on that which he does not already know but include the getting an admission of anything which he has to prove on any issue which is raised between him and the defendant. (Ref: Attorney-General vs. Gashill (1882) 20 Ch. 519). Order XI gives a party a right to interrogate with a view to obtaining an admission from his opponent of everything which is material and relevant to the issue raised on the pleadings. The object is to obtain an admission from the opponent which will make the burden of proof easier than it otherwise would have been. Interrogatories are admissible which go to

support the applicant's case or to impeach or destroy the opponent's case. (Ref: Plymouth Mutual Co-op. Society vs. Traders Publishing Association (1906) 1 LJ 415.) 1.

22. Answers to the interrogatories would lead to reduction in the time taken by the court in recording cross examination and help in crystallizing the cross examination. The pleadings may not sufficiently disclose the nature of the parties case and in order to make good the deficiencies, this rule has been enacted. The court should not be hyper-technical at the stage of serving the interrogatories. The only defence to service of interrogatories can be when the same do not relate to the matter in question or are scandalous.2 A.K. Aggarwal vs. Shanti Devi 1996 RLR 60 Canara Bank vs. Rajiv Tyagi & Associates & Anr. (2010) 166 DLT 523

23. Administering of Interrogatories is to be encouraged as it is a means of obtaining admissions of parties and tends to shorten litigation. As a general rule the Interrogatory should be allowed, Transport Corporation Of India Ltd vs Reserve Bank Of India & Anr on 24 August, 2017 Indian Kanoon - <http://indiankanoon.org/doc/198322374/> 8whether the answer to them would either strengthen the case of the party administering them or to destroy the case of the adversary. The court should not be hyper-technical at the stage of the service of the Interrogatories. This rule is to be used liberally whenever it could shorten the litigation and serve the interest of justice.”

21. The Hon’ble High Court of Delhi in case titled Shree Vijaya Fabrics Thr Vimalwanti.. Vs Shivani Khanna & Anr. in CM(M) 266/2020 & CM No.8000/2020 decided oon 23rd September 2021 has held as under :

4. The above provisions have been interpreted by this Court in a catena of judgments (see Sharda Dhir Vs. Ashok Kumar Makhija and Ors. MANU/DE/1021/2002, Canara Bank Vs. Rajiv Tyagi & Association & Anr. ILR (2010) III Delhi 270 and Transport Corporation of India vs. Reserve Bank of India MANU/DE/2499/2017). I have, in a recent judgment in Tara Batra Vs. Punam A. Kumar & Ors.

MANU/DE/1968/2021, while following the previous judgments of this Court, held that Courts while deciding an application seeking leave to administer interrogatories have to only consider whether the interrogatories sought to be administered have any bearing on the case. The Courts have to be liberal and not hyper- technical in allowing the use of interrogatories as the interrogatories help shorten the controversy between the parties and hence, reduce the time taken for the trial. It has also been held that once the interrogatories are served upon the party, the said party has to answer the interrogatories on affidavit and in the said affidavit, objections can be raised on the ground that the said interrogatories are scandalous or not relevant for the purposes of the suit. It is at that stage, that the Courts have to consider which of the questions in the interrogatories the party should be compelled to answer.

22. The Hon'ble High Court of Delhi in case titled Dr. Alok Adholeya Vs The Energy And Resources Institute & Ors, in CS (OS) 483/2021 decided on 5th May, 2022 has held as under:

18. The present application has been filed for serving interrogatories upon the defendant no.1 under Order XI Rule 1 of the CPC.

19. The interrogatories sought to be delivered are mentioned in paragraph 8 of the said application.

20. I have perused the interrogatories.

21. In Tara Batra vs. Punam A. Kumar & Ors, 2021 SCC Online Del 4331, this bench had observed as under:

"24. When examined in the light of parameters laid down in the aforesaid judgments, clearly, the Trial Court has misdirected itself in rejecting the application filed by the petitioner under Order XI Rule 1 of the CPC. While deciding the said application under Order XI Rule 1 of the CPC, the Trial Court had to only consider whether answer to the said interrogatories would have some bearing on the issues involved in the case and whether the same could be necessary for fair adjudication of the dispute. The very object of the interrogatories is to know the case of the opposite party and to, therefore, shorten the trial and limit the scope of the cross- examination. The Courts should be liberal and should not be hyper-technical in allowing the use of interrogatories in a suit.

Interrogatories also enable a party to obtain an admission from the opponent, which reduces the scope of trial and the cost of litigation for the parties. Once the Court comes to the conclusion that the interrogatories are relevant for proper adjudication of the case, the interrogatories are served upon the other party and the said other party has to answer the interrogatories on affidavit or objections can be raised on the ground that the said interrogatories are scandalous in nature or are not relevant or not bona fide for the purposes of the suit or on the ground of privilege. The objections on the grounds above have to be taken on affidavit. It is at that stage that the Court has to consider which of the questions in the interrogatories the party should be compelled to answer." In my view, the aforesaid interrogatories are relevant for the proper adjudication of the suit. Accordingly, the application is allowed and the defendant is directed to answer the aforesaid interrogatories on affidavit, in terms of Order XI Rules 8 and 9 of the CPC, within four weeks from today. I.A.6901/2022 (u/O-VII R-14 of CPC)

23. Though some of the questions mentioned in the interrogatories have been asked but PW-1 has not replied properly those questions. PW-1 has replied some of the questions of defendant as follows:

24. PW-1 has deposed that as per his knowledge and information Mr. R.P. Singh, (Director), the entire set of original documents are lying with police station Raipur. PW-1 further deposed that he will bring the list of documents, original of which was submitted to P.S. Raipur, on the next date of hearing. He further deposed that he does not know the full form of HSS. PW-1 further deposed that he needs to verify from Mr. R.P Singh before giving answers whether the plaintiff company has sought for the original documents from P.s. Raipur.

25. PW-1 further deposed that he does not have the complete knowledge of the contents and terms-conditions of HSS Agreement as well as its execution. PW-1 further deposed that it is correct that he does not have any personal knowledge of the said case in Raipur but has gathered information only to the extent as informed to him by Mr. R.P. Singh.

26. PW-1 further deposed that he does not have any detail as to who pay the custom duty to the custom department in the case of the HSS agreement. However, he voluntarily deposed that as the custom clearance is being handed by CHA, so they are best person to clarify on this aspect. PW-1 further deposed that the CHA agents are being appointed by the Division Head who is handling the equipment division. PW-1 further deposed that it is correct that the CHA agents are appointed by the company only. PW-1 further deposed that he cannot tell that the said HSSA document is with the defendant or with police or with plaintiff. PW-1 further deposed that he cannot say as to how many original documents have been filed in the present case.

27. PW-1 further deposed that he is not aware whether the plaintiff company had to provide in original, bill of entry, invoices and airways bills, agreement to sell, challan, custom duty, CHA bill, AAI receipts etc. to M/s Surji Aid Pharma. PW-1 further deposed about 17 documents in his testimony dated 10.04.2024 that the originals of said documents may be with the advocate but the said documents are not in possession of the company. If the said documents are with their advocate then he will produce the same in court.

28. It is settled law that while dealing with application for permission to serve interrogatories, the court should be liberal and hyper-technical approach should not be adopted. Generally, the interrogatories should be filed before commencement of trial but order 11 rule 1 CPC does not bar the filing of interrogatories after commencement of Trial. On behalf of plaintiff only one witness has been examined and his evidence has also not been concluded as his cross-examination is going on.

29. The sought interrogatories by the defendant are relevant to the present case and reply to said interrogatories will short the trial by narrow the scope of cross-examination of the witnesses of plaintiff and will save the time of court as well as of parties.

30. In view of foregoing discussions, the present application stands allowed with a direction to the plaintiff to answer the interrogatories by filling appropriate affidavit in terms of order 11 rule 8 & 9 of CPC within 15 days from today.

31. It is made clear that the defendant will not be entitled to put questions to witnesses of plaintiff, which have been asked by way of interrogatories except in the form of suggestions only.

**Announced in the open court
on 23rd December, 2025**

**(SHIV KUMAR)
DJ-02, WEST
TIS HAZARI COURT
DELHI**